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MONTANA LEGISLATIVE HISTORY

Chapter 452 19 97

Bill H 346 S _____ Original bill & history ✓ C

H. Committee on Judiciary		S. Committee on Judiciary	
Hearing Date(s) 2-5	✓ C	Hearing Date(s) 3-13	✓ C
2-12	✓ C	_____	___ C
_____	___ C	_____	___ C
Conf. Com. 4-14	___ C	_____	___ C
Date Out Free Conf 4-16	✓ C		

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendent information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

5/02	SIGNED BY GOVERNOR CHAPTER NUMBER 521 EFFECTIVE DATE: 10/01/97		

HB 346 INTRODUCED BY TROPILA, ET AL. *LC1002 DRAFTER: ERICKSON*

REVISE THE LAWS RELATING TO MANDATORY MOTOR VEHICLE INSURANCE

1/24	INTRODUCED		
1/24	FIRST READING		
1/24	REFERRED TO JUDICIARY		
1/24	FISCAL NOTE REQUESTED		
1/30	FISCAL NOTE RECEIVED		
2/03	FISCAL NOTE PRINTED		
2/05	HEARING		
2/12	TABLED IN COMMITTEE		
2/20	TAKEN FROM COMMITTEE AND PLACED ON 2ND READING	77	21
2/24	2ND READING PASSED AS AMENDED	91	9
2/26	3RD READING PASSED	90	10
	TRANSMITTED TO SENATE		
3/03	FIRST READING		
3/03	REFERRED TO JUDICIARY		
3/07	REVISED FISCAL NOTE REQUESTED		
3/10	REVISED FISCAL NOTE RECEIVED		
3/11	REVISED FISCAL NOTE PRINTED		
3/13	HEARING		
3/15	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/19	2ND READING CONCURRED	49	1
3/20	3RD READING CONCURRED	49	1
	RETURNED TO HOUSE WITH AMENDMENTS		
4/09	2ND READING AMENDMENTS NOT CONCURRED	95	4
4/10	CONFERENCE COMMITTEE APPOINTED		
4/14	HEARING		
4/14	CONFERENCE COMMITTEE DISSOLVED		
4/14	FREE CONFERENCE COMMITTEE APPOINTED		
4/15	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/15	FISCAL NOTE PRINTED		
4/16	HEARING		
4/16	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/17	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	99	1
4/18	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	88	11
	SENATE		
4/11	CONFERENCE COMMITTEE APPOINTED		
4/14	CONFERENCE COMMITTEE DISSOLVED		
4/14	FREE CONFERENCE COMMITTEE APPOINTED		
4/17	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/17	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	47	0
4/18	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	49	0
4/22	SIGNED BY SPEAKER		
4/25	SIGNED BY PRESIDENT		
4/25	TRANSMITTED TO GOVERNOR		
4/30	SIGNED BY GOVERNOR CHAPTER NUMBER 452 EFFECTIVE DATE: 07/01/97		

HOUSE JUDICIARY

BILL NO	REFERRED	HEARING	OTHER CONSIDERATION DATES	EXECUTIVE ACTION/DATE/VOTE	REREFERRED	DATE READ
HB0323	BOHARSKI, WILLIAM 1/22	2/13	PROHIBIT SAME-SEX MARRIAGES	DO PASS 02/19 VOTE: 15-5		2/19
HB0325	BRAINARD, MATT 1/23	2/07	AMEND CONST. TO MANDATE GRAND JURY IF PEOPLE PETITION FOR ONE	DO PASS 02/13 VOTE: 10-3		2/14
HB0337	BOHLINGER, JOHN 1/23	2/06	IMMUNITY FOR DENTISTS WHO PROVIDE CHARITABLE SERVICES	PASS AS AMENDED 02/12 VOTE: 19-0		2/13
HB0339	CAREY, BILL 1/23	2/04	CHANGE PENALTY FOR ONE UNDER 21 WHO FAILS DUI TEST	PASS AS AMENDED 02/04 VOTE: 15-0		2/05
HB0342	BARNHART, BEVERLY 1/23	2/05	ELIMINATE $10 MAXIMUM LIMIT FOR ON-CAMPUS VEHICLE AND PARKING VIOLATIONS	DO PASS 02/05 VOTE: 18-2		2/06
HB0343	GRIMES, DUANE 1/23	1/31	REVISE DOMESTIC VIOLENCE LAWS	PASS AS AMENDED 02/06 VOTE: 16-2		2/07
HB0346	TROPILA, JOE 1/24	2/05	GENERALLY REVISING LAWS RELATING TO MANDATORY MOTOR VEHICLE INSURANCE	TABLED ON 02/12 VOTE: 19-0		
HB0352	SLITER, PAUL 1/25	1/30	IMMUNIZE OWNER OF STOLEN PROPERTY FROM LIABLE LATER OCCURRING	PASS AS AMENDED 02/12 VOTE: 11-7		2/13
HB0365	MCGEE, DANIEL 1/27	2/12	CREATE OFFENSE OF CAUSING PARTIAL-BIRTH ABORTIONS	DO PASS 02/18 VOTE: 12-8		2/18
HB0389	SIMON, BRUCE 1/29	2/11	STRENGTHEN THE REQUIREMENTS FOR AN EMERGENCY STATE AGENCY RULE	TABLED ON 02/11 VOTE: 16-4		
HB0396	GRIMES, DUANE 1/30	2/12	PLACE PODIATRY IN MEDICAL LEGAL PANEL ACT	DO PASS 02/12 VOTE: 16-0		2/13
HB0401	BARNETT, JOE 1/30	2/11	REVISE LAWS GOVERNING BAIL	PASS AS AMENDED 02/11 VOTE: 20-0		2/12

House BILL NO. 346

INTRODUCED BY Virgil Ryan Carey M. Cam

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO MANDATORY MOTOR VEHICLE INSURANCE; REQUIRING PROOF OF COMPLIANCE WITH THE FINANCIAL RESPONSIBILITY LAW BEFORE A MOTOR VEHICLE MAY BE REGISTERED; REQUIRING SUSPENSION OF A DRIVER'S LICENSE UPON A FOURTH CONVICTION; REQUIRING AN INSURANCE COMPANY TO NOTIFY THE DEPARTMENT OF JUSTICE OF THE CANCELLATION OR NONRENEWAL OF A MOTOR VEHICLE LIABILITY POLICY; AND AMENDING SECTIONS 61-5-206, 61-6-302, AND 61-6-304, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-5-206, MCA, is amended to read:

"**61-5-206. Authority of department to suspend license or driving privilege or issue probationary license.** (1) The department may suspend the driver's license or driving privilege of a driver without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:

(a) has been involved as a driver in any accident resulting in the death or personal injury of another or serious property damage;

(b) has been convicted with such frequency of serious offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;

(c) is ~~an~~ a habitually reckless or negligent driver of a motor vehicle;

(d) is incompetent to drive a motor vehicle;

(e) has committed or permitted an unlawful or fraudulent use of the license as specified in 61-5-302;

(f) has committed an offense in another state ~~which~~ that if committed in this state would be grounds for suspension or revocation;

(g) has falsified the licensee's date of birth on the application for a driver's license;

(h) is under 21 years of age and has altered the licensee's or another's driver's license or identification card to obtain alcohol; or

(i) has authorized another to use the licensee's driver's license or identification card to obtain alcohol.

(2) The department shall suspend the driver's license of a driver without a preliminary hearing upon a showing that the licensee was not in compliance with 61-6-301. The department may not issue a probationary license to a driver whose license was suspended under this subsection.

~~(2)~~(3) However, the department may, in its discretion and in lieu of suspending the license or driving privilege, issue a probationary license to a driver, without preliminary hearing, upon a showing by its records or other sufficient evidence that the licensee's driving record is such as would authorize suspension as provided in subsection (1). Upon issuance of a probationary license, the licensee is subject to the restrictions set forth in the probationary license. The licensee's driving privilege may be suspended upon conviction or forfeiture of bail not vacated of any traffic violation during the period of probation. The licensee shall surrender to the department all driver's licenses that have been issued to the licensee before the probationary license may be issued. The licensee's refusal or neglect to surrender the licenses upon demand is grounds for suspending all licenses. Probationary licenses may be issued for a period not to exceed 12 months.

~~(3)~~(4) Upon suspending the license of any person or upon placing the person on probation, as authorized in this section, the department shall immediately notify the licensee in writing and upon the licensee's request shall afford the licensee an opportunity for a hearing as early as practical within not to exceed 20 days after receipt of the request in the county in which the licensee resides unless the department and the licensee agree that the hearing may be held in some other county. At the hearing, the department through its authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. At the hearing, the department shall either rescind its order of suspension or probation, or, for good cause, may affirm, reduce, or extend the period of probation or suspension of the license."

Section 2. Section 61-6-302, MCA, is amended to read:

"**61-6-302. Proof of compliance.** (1) ~~The registration receipt required by 61-3-322 must contain a statement that unless the vehicle is eligible for an exemption under 61-6-303, it is unlawful to operate the vehicle without a valid motor vehicle liability insurance policy, a certificate of self-insurance, or a posted indemnity bond, as required by 61-6-301.~~ Except as provided in subsection (2), before an applicant

required to register a motor vehicle may do so, the applicant shall certify to the county treasurer that the applicant possesses an automobile liability insurance policy, a certificate of self-insurance, or a posted indemnity bond or that the applicant is eligible for an exemption under 61-6-303 covering the motor vehicle. The certification must be on a form prescribed by the department. The department may immediately cancel the registration and license plates of the vehicle upon notification that the insurance certification was not correctly represented. A person who intentionally provides false information on an insurance certification is guilty of unsworn falsification to authorities, punishable as provided in 45-7-203.

(2) An applicant for registration of a motor vehicle who wishes to register the vehicle by mail shall sign a statement on the application stating that the applicant is in compliance with the financial liability requirements of 61-6-301.

(3) (a) An owner of a motor vehicle who ceases to maintain the insurance or bond required or whose certificate of self-insurance is canceled or whose vehicle ceases to be exempt shall immediately surrender the registration and license plates for the vehicle to the county treasurer for delivery to the department.

(b) If the department receives a cancellation or nonrenewal notice from an insurer as provided in [section 4], the department shall order the surrender of the registration and license plates.

(c) The owner may not operate or permit operation of the vehicle in Montana until insurance has again been furnished as required and the vehicle is again registered and licensed.

~~(2)~~(4) Each person shall carry in a motor vehicle being operated by the person an insurance card approved by the department but issued by the insurance carrier to the motor vehicle owner as proof of compliance with 61-6-301. A motor vehicle operator shall exhibit the insurance card upon demand of a justice of the peace, a city or municipal judge, a peace officer, a highway patrol officer, or a field deputy or inspector of the department. A person commits an offense under this subsection if the person fails to carry the insurance card in a motor vehicle or fails to exhibit the insurance card upon demand of a person specified in this subsection. However, a person charged with violating this subsection may not be convicted if the person produces in court or the office of the arresting officer proof of insurance valid at the time of arrest."

Section 3. Section 61-6-304, MCA, is amended to read:

"61-6-304. Penalties. (1) Conviction of a first offense under 61-6-301 or 61-6-302 is punishable

by a fine of not less than $250 or more than $500 or by imprisonment in the county jail for not more than 10 days, or both. A second conviction is punishable by a fine of $350 or by imprisonment in the county jail for not more than 10 days, or both. A third or subsequent conviction is punishable by a fine of $500 or by imprisonment in the county jail for not more than 6 months, or both.

(2) Upon a second or subsequent conviction under 61-6-301 or 61-6-302, the sentencing court shall order the surrender of the vehicle registration receipt and license plates for the vehicle operated at the time of the offense if that vehicle was operated by the registered owner or a member of the registered owner's immediate family or by a person whose operation of that vehicle was authorized by the registered owner. The court shall send the receipt and plates, along with a copy of the complaint and dispositional order, to the department, which shall immediately suspend the receipt and plates for a period of 90 days from the date of a second conviction or 180 days from the date of a third or subsequent conviction. The receipt and plates may not be reinstated until the expiration of that period, but if the vehicle is transferred to a new owner, the new owner is entitled to register the vehicle.

(3) Upon a fourth and subsequent conviction under 61-6-301 or 61-6-302, the court shall order the surrender of the driver's license of the registered owner of the vehicle. The court shall send the driver's license, along with a copy of the complaint and the dispositional order, to the department, which shall immediately suspend the driver's license until the registered owner provides proof of compliance with 61-6-301. At that time, the owner may apply for a new driver's license as provided by law.

~~(3)~~(4) The court may suspend a required fine only upon a determination that the offender is or will be unable to pay the fine.

~~(4)~~(5) A court may not defer imposition of penalties provided by this section."

NEW SECTION. **Section 4. Notification of cancellation or nonrenewal.** If an insurer cancels or does not renew a motor vehicle liability policy after complying with the provisions of 33-23-212 and 33-23-214, the insurer shall send a copy of the cancellation or nonrenewal notice to the department of justice.

NEW SECTION. **Section 5. Codification instruction.** [Section 4] is intended to be codified as an integral part of Title 33, chapter 23, part 2, and the provisions of Title 33, chapter 23, part 2, apply to [section 4].

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0346, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:
An act generally revising the laws relating to mandatory motor vehicle insurance; requiring proof of compliance with the financial responsibility law before a motor vehicle may be registered; requiring suspension of a driver's license upon a fourth conviction; requiring an insurance company to notify the Department of Justice of the cancellation or nonrenewal of a motor vehicle liability policy.

ASSUMPTIONS:
1. The effective date of this bill is October 1, 1997; therefore, annualized personal services and operating expenditures and revenues in fiscal 1998 would be 75% of the fiscal year.
2. Based upon information provided by the insurance industry, in the State of Montana approximately 90,000 motor vehicle insurance policies are issued cancellation or nonrenewal notices each year. This would generate more than 90,000 system entries to suspend driver licenses and more than 90,000 entries to record the surrender orders on the motor vehicle license plates and registrations.
3. The Department of Justice assumes that approximately 75,000 or more driver license reinstatements would be processed annually. It is also assumed that an equal number of motor vehicle license plates and registrations would be reinstated.
4. The department would need 12.00 FTE and approximately $176,734 in fiscal 1998 and $235,646 in fiscal 1999 personal services to process the more than 90,000 driver license suspensions and reinstatements and more than 90,000 motor vehicle registration and license plates surrenders and reinstatements, approximately 300 fourth offense driver license suspensions, and an estimated 45,000 additional incoming telephone calls. (1.00 supervisor, grade 11, at $25,370 per year and 11.00 administrative support personnel, grade 7, at $19,116 per year for each. FTE and personal services in fiscal 1998 would be for 75 percent of the year.)
5. Annual operating expenditures are estimated at $192,413 in fiscal 1998 and $256,550 in fiscal 1999 for such items as $8,000 for printing forms, letters and envelopes, $205,050 for postage for letters (90,000 @ $.32 each) and mailing of license plates and registrations (75,000 @ $2.35 each), $22,920 for computer access and mainframe processing, $6,480 for communications (telephone lines and long distance charges), $8,500 for office space/rent for 1,000 sq.ft., and $5,600 for office supplies, files, and computer papers/ribbons. Fiscal 1998 operating expenses would be for 75% of the fiscal year.
6. One-time costs in fiscal 1998 would be an additional $4,800 in operating expenses for the installation of 12 telephone/data lines at $200 each and approximately $2,400 for 120 hours of computer programming costs.
7. Additional one-time costs in fiscal 1998 would be $36,000 for 12 computers ($3,000 x 12), $2,100 for a 21 inch monitor for imaging, $3,000 for two high volume printers ($1,500 x 2), $17,500 for 50 4-drawer filing cabinets ($350 x 50), $3,700 for a high volume fax machine, $12,600 for 12 secretarial desks and computer work stations ($1,050 x 12), and $5,700 for 12 secretarial chairs ($475 x 12).

(Continued)

Dave Lewis 1-30-97

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

JOE TROPILA, PRIMARY SPONSOR DATE

FISCAL IMPACT:

Expenditures:	FY98 Difference	FY99 Difference
FTE	9.00	12.00
Personal Services	176,734	235,646
Operating Expenses	199,613	256,550
Equipment	80,600	0
Total	456,947	492,196
Funding:		
General Fund (01)	456,947	492,196
Net Impact:		
General Fund (01)	(456,947)	(492,196)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
Counties will incur increased postage expenditures to deliver the surrendered registra and license plates to the Department of Justice that are received in accordance with Section 2(3). There would be an unknown increase in revenues due to an increase in the number of citations issued for failure to carry or provide a driver's license and moto vehicle license plates and registrations.

TECHNICAL NOTES:
1. The private insurance industry would have increased costs to comply with Section 4 of this HB 346.
2. The title of HB 346 mentions financial responsibility laws; however, the financial responsibility laws are not referenced in the body of this bill.
3. HB 346 does not provide any enforcement provision for failure to comply with this ac

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN BOB CLARK, on February 5, 1997, at 7:00 AM, in Room 312-1.

ROLL CALL

Members Present:

Rep. Bob Clark, Chairman (R)
Rep. Daniel W. McGee, Vice Chairman (Majority) (R)
Rep. Diana E. Wyatt, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Shiell W. Anderson (R)
Rep. Ellen Bergman (R)
Rep. William E. Boharski (R)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. Duane Grimes (R)
Rep. H.S. "Sonny" Hanson (R)
Rep. Joan Hurdle (D)
Rep. Deb Kottel (D)
Rep. Linda McCulloch (D)
Rep. Brad Molnar (R)
Rep. Gerald Pease (D)
Rep. Diane Sands (D)
Rep. Liz Smith (R)
Rep. Loren L. Soft (R)
Rep. Bill Tash (R)

Members Excused: REPS. ANDERSON and BOHARSKI excused until 8 AM.

Members Absent: REP. SMITH absent until 7:45 AM.

Staff Present: John MacMaster, Legislative Services Division
Joanne Gunderson, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted:	HB 127, HB 306, HB 342, HB 346
	POSTED 1/28/97
Executive Action:	HB 127, HB 187 TABLED
	HB 251 DO PASS AS AMENDED
	HB 264 DO PASS AS AMENDED
	HB 272 DO PASS AS AMENDED
	HB 342 DO PASS

Closing by Sponsor: **REP. AUBYN CURTISS** **EXHIBIT 12**
{Tape: 3; Side: B; Approx. Time Count: 7.3}

{Comments: This exhibit was submitted after the close of the hearing.} **EXHIBIT 13**

HEARING ON HB 346

Opening Statement by Sponsor: **REP. JOE TROPILA** **EXHIBIT 14**
{Tape: 3; Side: B; Approx. Time Count: 10.9}

Proponents' Testimony:

BRENDA NORDLAND, Department of Justice **EXHIBIT 15**
{Tape: 3; Side: B; Approx. Time Count: 13.8}

Opponents' Testimony:

RON ASHABRANER, State Farm Insurance **EXHIBIT 16**
{Tape: 3; Side: B; Approx. Time Count: 19.0}

Questions From Committee Members and Responses:
{Tape: 3; Side: B; Approx. Time Count: 22.9 - 31.8}

Closing by Sponsor: **REP. TROPILA** **EXHIBIT 17**
{Tape: 3; Side: B; Approx. Time Count: 31.9}

MOTION/VOTE: **REP. MC GEE MOVED TO ADJOURN.** The motion carried by unanimous vote.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN BOB CLARK, on February 12, 1997, at 7:00 AM, in Room 312-1.

ROLL CALL

Members Present:

Rep. Bob Clark, Chairman (R)
Rep. Daniel W. McGee, Vice Chairman (Majority) (R)
Rep. Diana E. Wyatt, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Shiell W. Anderson (R)
Rep. Ellen Bergman (R)
Rep. William E. Boharski (R)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. Duane Grimes (R)
Rep. H.S. "Sonny" Hanson (R)
Rep. Joan Hurdle (D)
Rep. Deb Kottel (D)
Rep. Linda McCulloch (D)
Rep. Brad Molnar (R)
Rep. Gerald Pease (D)
Rep. Diane Sands (D)
Rep. Liz Smith (R)
Rep. Loren L. Soft (R)
Rep. Bill Tash (R)

Members Excused: Rep. Boharski was excused until 8:00 AM.

Staff Present: John MacMaster, Legislative Services Division
Joanne Gunderson, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted:	HB 365, HB 396; POSTED 2/6/97
Executive Action:	HB 396	DO PASS
	HB 337	DO PASS AS AMENDED
	HB 352	DO PASS AS AMENDED
	HB 346, HB 415	TABLED
	HB 325,	DO PASS AS AMENDED*

EXECUTIVE ACTION ON HB 352

Motion: **REP. ANDERSON moved HB 352 DO PASS.**
{Tape: 1; Side: A; Approx. Time Count: 4.3; Comments: This set of minutes is recorded on 90-minute tapes.}

Motion: **REP. MC GEE moved to amend HB 352 to strike "original" on lines 4 and 13 and strike remainder of line 16 through "weapon and insert "property taken" and replace "weapon" with "property."**

Discussion:
{Tape: 1; Side: A; Approx. Time Count: 4.8}

Vote: The motion carried 11 - 7; REPS. WYATT, MC CULLOCH, PEASE, KOTTEL, SANDS, ELLINGSON and HURDLE voting no.

Motion/Vote: **REP. MC GEE moved HB 352 DO PASS AS AMENDED.** The motion carried 11 - 7; REPS. WYATT, MC CULLOCH, PEASE, KOTTEL, SANDS, ELLINGSON and HURDLE voting no. (REPS. BOHARSKI and GRIMES were not present and did not vote.)
{Tape: 1; Side: A; Approx. Time Count: 10.8; Comments: The motion and vote were preceded only by clarification discussion.}

EXECUTIVE ACTION ON HB 415

Motion: **REP. CURTISS moved HB 415 DO PASS.**

Discussion:
{Tape: 1; Side: A; Approx. Time Count: 11.5}

Motion/Vote: **REP. ANDERSON moved to table HB 415.** The motion carried 12 - 6; REPS. WYATT, CURTISS, AHNER, BERGMAN, SMITH and CLARK voting no. (REPS. BOHARSKI and GRIMES were not present and did not vote.)

EXECUTIVE ACTION ON HB 346

Motion: **REP. DIANA WYATT moved HB 346 DO PASS.**
{Tape: 1; Side: A; Approx. Time Count: 15.4}

Discussion:
{Tape: 1; Side: A; Approx. Time Count: 15.5 - 17.6}

Motion: **REP. WYATT moved the Department of Justice amendments.**
{Tape: 1; Side: A; Approx. Time Count: 17.7}

Discussion:
{Tape: 1; Side: A; Approx. Time Count: 17.8}

Motion/Vote: **REP. GRIMES moved to table HB 346.** The motion carried 19 - 0.

EXECUTIVE ACTION ON HB 337

Motion: **REP. LOREN SOFT moved HB 337 DO PASS.**
{Tape: 1; Side: A; Approx. Time Count: 23.8}

Discussion:
{Tape: 1; Side: A; Approx. Time Count: 24.0}

SENATE JUDICIARY

BILL NO	REFERRED	HEARING	OTHER CONSIDERATION DATES	EXECUTIVE ACTION/DATE/VOTE	REREFERRED	DATE READ
HB0306	3/07	3/24		TABLED ON 03/27 VOTE:7-3		
HB0321	MCCULLOCH, LINDA 2/08	2/20	MAKE IT AN OFFENSE TO OBSTRUCT A PROCESS SERVER	CONCUR VOTE: 10-0	2-20	2/20
HB0323	BOHARSKI, WILLIAM 3/03	3/17	PROHIBIT SAME-SEX MARRIAGES	CONCUR VOTE: 7-3	3-18	3/19
HB0325	BRAINARD, MATT 2/19	3/10	AMEND CONST. TO MANDATE GRAND JURY IF PEOPLE PETITION FOR ONE	TABLED ON 03/11 VOTE:		
HB0337	BOHLINGER, JOHN 2/19	3/04	IMMUNITY FOR DENTISTS WHO PROVIDE CHARITABLE SERVICES	CONCUR AS AMENDED VOTE: 10-0	3-4	3/06
HB0339	CAREY, BILL 2/11	3/11	CHANGE PENALTY FOR ONE UNDER 21 WHO FAILS DUI TEST	CONCUR AS AMENDED VOTE: 9-1	3-13	3/15
HB0343	GRIMES, DUANE 2/13	3/10	REVISE DOMESTIC VIOLENCE LAWS	CONCUR AS AMENDED VOTE: 10-0	3-11	3/12
HB0346	TROPILA, JOE 3/03	3/13	GENERALLY REVISING LAWS RELATING TO MANDATORY MOTOR VEHICLE INSURANCE	CONCUR AS AMENDED VOTE: 10-0	3-13	3/15
HB0352	SLITER, PAUL 2/19	3/10	IMMUNIZE OWNER OF STOLEN PROPERTY FROM LIABLE LATER OCCURRING	CONCUR AS AMENDED VOTE: 7-3	3-11	3/12
HB0401	BARNETT, JOE 2/19	3/12	REVISE LAWS GOVERNING BAIL	CONCUR AS AMENDED VOTE: 10-0	3-12	3/14
HB0411	AHNER, CHRIS 2/19	3/12	MAKE IT AN OFFENSE TO TATTOO A MINOR WITHOUT PARENTAL CONSENT	CONCUR VOTE: 10-0	3-12	3/13
HB0426	KOTTEL, DEB 2/20	3/18	REVISE UNIFORM COMMERCIAL CODE LETTERS OF CREDIT AND SECURITIES	CONCUR AS AMENDED VOTE:10-0	3-19	3/21
	WELLS, JACK		GENERALLY AMEND CONCEALED WEAPON PERMIT LAW			

MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **ACTING CHAIRMAN REINY JABS**, on March 13, 1997, at 9:00 A.M., in Room 325.

ROLL CALL

Members Present:
Sen. Bruce D. Crippen, Chairman (R)
Sen. Lorents Grosfield, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Sharon Estrada (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter L. McNutt (R)

Members Excused: Sen. Holden, Sen. Estrada, Sen. Halligan

Members Absent: None

Staff Present: Valencia Lane, Legislative Services Division
Judy Keintz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:	HB 243	3/4/97
	HB 479	3/4/97
	HB 346	3/4/97
Executive Action:	HB 251, HB 243, HB 479, HB 346, HB 339, HB 68	

HEARING ON HB 243

{Tape: 1; Side: A; Approx. Time Count: 9:05; Comments: .}

Sponsor: **REP. MATT DENNY, HD 63, Missoula**

Proponents: **Brad Griffin, Montana Retail Assoc.**
Aric Curtiss, Helena Shop Ko Loss Prevention Manager
Bernard Jakely, Great Falls Shop Ko Loss Prevention Manager
Jeff Koch, Montana Collector's Association

Ms. Phippen explained that they would draw 450 names of potential jurors for each year. They would then send out jury summons, questionnaires, affidavits to claim excuse to the 450 people. A person with a chronic illness will fill out their affidavit to claim excuse and get a doctor's notification that they are unable to serve as an active juror. They draw an extra amount because they know they are only going to qualify about half of the potential jurors. The judge will permanently excuse them from jury duty. They give a list to the clerk and recorder so that they are not notified every year. If a juror is on active jury duty for a year and they are going to be out of the county for more than 48 hours, other than a weekend, they will call in and have their name taken off during that time.

Closing by Sponsor

REP. TUSS stated this would make things easier for the clerk and recorders and adds a degree of dignity for folks who would not ask for permanent exclusion.

HEARING ON HB 346

{Tape: 1; Side: B; Approx. Time Count: 9:54; Comments: .}

Sponsor: **REP. JOE TROPILIA, HD 47, Great Falls**

Proponents: **Dean Roberts, Department of Justice**

Opponents: **REP. LES PROUSE, HD 15, Shepherd**

Opening Statement by Sponsor:

REP. JOE TROPILIA, HD 47, Great Falls, introduced HB 346. Originally, this bill increased the penalty for not having liability insurance. His amendment to the bill was to take away the offender's driver's license. He or she would also have to show proof of insurance when licensing their car. The bill also stated that the insurance companies would notify the Department of Justice and the county treasurer if the insurance was cancelled. The insurance companies felt that would cost them too much money. They tabled the bill in judiciary. He agreed to amend that section of the bill. The Judiciary Committee passed the bill with the other two provisions. There is a provision stating that the county treasurers do not have to do this and the Department would like to amend that out of the bill.

Proponents' Testimony:

Dean Roberts, Department of Justice, stated that in 1993 there was a bill passed which came up with the present penalties. The old law stated that people had to sign a document with the county treasurer stating they had liability insurance. Research showed that no one had ever been prosecuted for not signing the document. All this does is slow down the process of registering

a vehicle. They have prepared amendments which change the title of the bill. **EXHIBIT 1** The original title addressed financial responsibility laws. The bill only spoke to proof of insurance. Amendment no. 3 would strike all the language dealing with the suspension of a license and also the reporting. In 1993 there was a mistake made by increasing the penalty, but allowing the person to automatically receive their registration and license plate. No one ever asks if they have insurance. Amendment no. 4 would provide that the license plate and registration would not be given back until proof of compliance was shown to the Department. They tracked people who lost their registration and plates and found that most of them were third time offenders.

Opponents' Testimony:

REP. LES PROUSE spoke in opposition of the bill. This bill makes a new class of people to discriminate against. Sixty percent of all vehicles on the road in Montana do not have liability insurance because people cannot afford insurance. Excessive fines make the problem worse. He handed out amendments, **EXHIBIT 2.** Instead of putting people in jail, he would give the judge the authority to pull their license but instead of paying the fine of $250, $500, or 10 days in jail or both, allow for them to show the judge within 30 days that they have insurance. Instead of a $500 fine, they could have a $100 fine and put the money on insurance.

Informational Testimony: None

Questions From Committee Members and Responses:

{Tape: 1; Side: b; Approx. Time Count: 10:10; Comments: .}

SEN. DOHERTY asked **REP. TROPILIA** if he agreed with **REP. PROUSE's** amendments?

REP. TROPILIA explained that in the House Floor session the amendments were voted down about 90 to 10.

SEN. CRIPPEN asked **REP. PROUSE** if driving was a privilege or a right?

REP. PROUSE stated that by the State of Montana it would be a privilege.

SEN. CRIPPEN stated that people have laughed at penalties in the past.

REP. PROUSE stated that 90,000 individuals have non-renewals every year. He doesn't believe this to be the upper class individuals. There are reservations with 80% unemployment rates. If the fine takes their first three paychecks, we will be sending them back to welfare.

SEN. CRIPPEN felt a $100 fine would not get anyone's attention. He asked **REP. PROUSE** if he carried under-insured motorists coverage on his policy and how much it cost him?

REP. PROUSE stated he did because he had to and that it probably cost him an additional $12. Other states have no-fault insurance. He would like to propose such a bill next session.

SEN. AL BISHOP asked if insurance companies notified the auditor's office when liability insurance was cancelled?

Roger McGlenn, Executive Director of the Independent Insurance Agents Assoc., stated they were not required to do so. There are multiple rules on cancellation mid-term which the insurance companies are required to follow but this does include notice to the insurance department.

CHAIRMAN JABS felt that **REP. PROUSE's** amendment would allow people not to carry insurance until they were caught.

REP. PROUSE stated that right now he would not have to buy insurance. If he didn't buy insurance for two years he would be $2400 ahead and he could easily pay the $500 fine. We should focus on having people pay insurance and not pay fines.

SEN. BISHOP commented that if people are driving without insurance, would it bother the same people to drive without a driver's license.

REP. TROPILIA answered they would also lose their license plates and motor vehicle registration.

Closing by Sponsor:

REP. TROPILIA closed on HB 346.

EXECUTIVE ACTION ON HB 251

{Tape: 2; Side: a; Approx. Time Count: 10:20; Comments: .}

Discussion:

SEN. DOHERTY stated he was in front of House Judiciary when executive action was held on this bill. House Bill 251 allowed a jury to determine if a lawsuit was frivolous or not. If a judge has determined that the case has enough merit to be brought to a jury and they decided for the defendant and make a decision that the case was not meritorious enough to be brought to the jury, who wins? He asked if the committee would reconsider their action and amend that part of the bill. He felt that mechanically there would be a problem.

Ms. Lane stated that question did come up during the hearing. **Russell Hill, MTLA,** felt it was a problem and assumed it was up

chronically ill individual can be excused from the jury. The statute on selection of jury lists states that they must select from the most recent list of all registered electors. The numbers are much smaller here and shouldn't cause a problem. House Bill 479 addresses specifically excluding individuals from jury duty but not excluded from being drawn from the jury list.

SEN. GROSFIELD suggested including the statute on selection of jury lists in HB 479. He questioned whether this could overturn a jury verdict.

Ms. Lane explained that she drafted the bill and she understood the intent of the bill was to exclude these individuals from the jury list. She suggested the bill not be amended at this point. If **SEN. BARTLETT's** concern is a true concern, this could be addressed next session. The local clerk and recorder felt this bill was sufficient.

SEN. BARTLETT stated that this bill excluded the individuals from jury duty. She felt that the sponsors wanted to exclude them from the list as well. In the records, these people will not ever be drawn for the list.

Ms. Lane commented that there could be an amendment added with respect to 3-15-402 which would state that persons who had been excused from jury duty under this section of the bill may be stricken from the list.

Substitute Motion: **SEN. CRIPPEN MOVED HB 479 BE AMENDED.**

Discussion:

SEN. CRIPPEN explained his amendment would state that when an individual has been permanently excused from jury duty under 3-15-313, that their names be removed from consideration under 3-15-402. That would be new section 2.

Vote: The **MOTION CARRIED UNANIMOUSLY.**

Motion/Vote: **SEN. CRIPPEN MOVED HB 479 BE CONCURRED IN AS AMENDED.** The **MOTION CARRIED UNANIMOUSLY.**

EXECUTIVE ACTION ON HB 346

Amendments: Department of Justice Amendment, **EXHIBIT 1**

Motion: **SEN. DOHERTY MOVED HB 346 BE AMENDED.**

Discussion:

SEN. DOHERTY explained the amendment to be Department of Justice amendment presented by Brenda Nordlund during the hearing.

Ms. Nordlund explained that this bill, as originally presented, was poorly drafted. The Department does not support sections 1 and 2. When they spoke at the House Judiciary hearing they spoke specifically to the section addressing suspension of driver's licenses. They support the bill with the amendments presented.

Vote: The **MOTION TO AMEND HB 346 CARRIED UNANIMOUSLY.**

Motion/Vote: **SEN. DOHERTY MOVED HB 346 BE CONCURRED IN AS AMENDED.** The **MOTION CARRIED UNANIMOUSLY.**

EXECUTIVE ACTION ON HB 339

{Tape: 2; Side: A; Approx. Time Count: 11:03; Comments: .}

Amendments: hb 033901.avl **EXHIBIT 3** and hb033902.avl **EXHIBIT 4**

Discussion:

Ms. Nordlund stated that the state DUI Task Force would prefer to see hard driver's license suspension. She prepared the amendments as a means of accommodating committee members who remembered that **SEN. NELSON** had strong objection to the 18 to 20 year olds. The amendments are in alternative. Amendment 1, hb33901.avl, allows a probationary driver's license to be issued if the court makes a specific finding that alternative means of transportation is not available to the person to meet work or school obligations and the person pays the reinstatement fee of $100 provided in 61-2-107. This amendment will disqualify us from the incentive money for the highway safety bureau. It does not affect the federal aid in highway construction dollars. The second amendment, hb033902.avl, would provide that they serve at least 30 days of a hard suspension and then be eligible for the probationary drivers license upon payment of the license reinstatement fee. The way the law is written, if someone is sentenced under the MIP statute it is up to the court as to whether they get the probationary license. The information she presented to the committee at the hearing explained that the number of probationary licenses which they have been issuing to MIP offenders has been a drop in the bucket compared to the number of suspensions and revocations. The 30 day hard suspension will qualify for the federal incentive monies for highway traffic safety.

{Tape: 2; Side: b; Approx. Time Count: 11:00; Comments: .}

This would amount to $500,000 per biennium. Amendment no. 1 would disqualify the state.

SEN. GROSFIELD asked if 30 days was the lowest number we could use?

Ms. Nordlund stated 30 days was necessary to receive the federal funding dollars.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON HOUSE BILL 346

Call to Order: By CHAIR RIC HOLDEN, on April 16, 1997, at 1:00 P.M., in ROOM 108.

ROLL CALL

Members Present:
Rep. Gay Ann Masolo (R)
Rep. William E. Boharski (R)
Rep. Joe Tropila (D)
Sen. Ric Holden (R)
Sen. Steve Doherty (D)

Members Excused: Sen. Sharon Estrada

Members Absent: None

Staff Present: Valencia Lane, Staff Attorney
Jaelene Racicot, Secretary

EXECUTIVE ACTION ON HB 346

Discussion:

SEN. RIC HOLDEN explained why the committee needed to work on HB 346. ***{Tape: 1; Side: A; Approx. Time Count: 0.}***

Brenda Nordlund, Department of Justice, explained the amendment. ***{Tape: 1; Side: A; Approx. Time Count: 1.0.}***

SEN. HOLDEN asked Ms. Nordlund to explain #4 on the amendment. ***{Tape: 1; Side: A; Approx. Time Count: 4.0.}***

REP. BOHARSKI asked SEN. HOLDEN if the committee had already adopted #4. ***{Tape: 1; Side: A; Approx. Time Count: 4.7.}***

SEN. HOLDEN asked Ms. Lane to comment. ***{Tape: 1; Side: A; Approx. Time Count: 4.8.}***

Motion/Vote: REP. BOHARSKI MOVED AMENDMENT #3. (HB034603.AVL) THE MOTION CARRIED UNANIMOUSLY. ***{Tape: 1; Side: A; Approx. Time Count: 5.2.}***

Discussion:

REP. BOHARSKI explained the Boharski amendment (drafted by Brenda Nordlund). ***{Tape: 1; Side: A; Approx. Time Count: 6.5.}***

REP. TROPILA stated he would oppose the amendment. ***{Tape: 1; Side: A; Approx. Time Count: 8.2.}***

SEN. DOHERTY commented on the amendment. ***{Tape: 1; Side: A; Approx. Time Count: 9.0.}***

SEN. HOLDEN stated he would oppose the amendment. ***{Tape: 1; Side: A; Approx. Time Count: 9.7.}***

Motion/Vote: REP. TROPILA MOVED HB 346 DO CONCUR AS AMENDED. THE MOTION CARRIED UNANIMOUSLY. ***{Tape: 1; Side: A; Approx. Time Count: 10.4.}***